

EXHIBIT #5  
DATE Feb 9th  
306

PARKER LAW FIRM

Debra D. Parker

ATTORNEY AT LAW

24 January 2011

Hon. Pat Ingraham, Chair  
House State Administration Committee

Re: HB 306 to eliminate the requirement for a notary public to keep a journal

Dear Chairperson Ingraham and Members of the Committee:

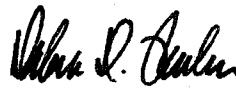
I am an attorney and a notary. I oppose the bill that would eliminate the requirement that notaries to keep a journal. The journals are inexpensive, easy to use and a good idea, both in terms of record keeping and reminding notaries of the essential elements of a valid notary *jurat*.

As an example, I currently represent a lender whose security interest in a vehicle is being challenged in a lawsuit because a notary notarized a title document outside the seller's presence. The purchaser had presented a pre-signed title certificate, and the notary signed it and affixed her seal. The seller now claims the vehicle was stolen. A journal entry requiring the sellers signature might have prevented this situation.

The notary's \$10,000 bond would not make my client whole. I suspect there are few transaction irregularities in today's world that could be cured for \$10,000. I urge the committee to reject this bill.

Sincerely,

Parker Law Firm



Debra D. Parker

**TOWE, BALL, ENRIGHT, MACKEY & SOMMERFELD P.L.L.P.**

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January 26, 2011

2525 Sixth Avenue North  
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Chairman and Members  
State Administration Committee  
House of Representatives  
Montana State Legislature  
Capitol Station  
PO Box 200400  
Helena, MT 59620-0400

Re: House Bill No. 306

Dear Friends:

House Bill 306 would repeal the requirement that every notary must keep a journal including the date, type of notarial act, type of document, and the name, address and signature of the individual for whom the notarization was performed. I think this would be a mistake. Even though it is a hassle at times and takes longer to notarize a signature, it can be very helpful.

Without a journal, notaries tend to bend the rules and sometimes are simply not reliable. With a journal, if there is ever an issue, we can simply look at the journal to verify the information. Most of the issues are dates - back dating documents is often attempted and a journal is the only way to make sure that does not happen.

At least twice I have had an issue with notaries. Years ago the issue of the accuracy of a notarization on a legal document was subject of a jury trial. Had the requirement for a journal been in existence at that time, the entire case could have been avoided. More recently, I have run into another case in which there is a question raised about the accuracy of the date on the notarization. That matter is still pending.

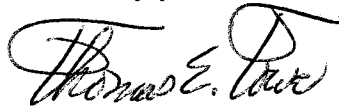
Consequently, I oppose House Bill 306 and would urge you not to pass it.

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KANDI MCCULLOCH

I am even more concerned about Section 2 of House Bill 306. This suggests that the journal should not be public. I think this is a mistake. The whole purpose of keeping a journal is to make sure the information entered in the journal can be useful as a guarantee of its accuracy. If the information is not public, most of the benefit of a journal is lost. The purpose of notarizing most documents is to make sure the document can be filed or recorded with the County Clerk and Recorder. Consequently, it makes no sense to keep the information in the notary journal secret. If they wanted it secret, they would not want it notarized. It should not be necessary for a person to file a lawsuit in order to determine the notary was accurate. It should always be open to the public at all times. And, when the notary dies, resigns, or is removed, it is important that this journal be turned over to a public official.

In some instances, the federal law does not even recognize a notary unless the notary keeps a journal. For example, under Security and Exchange Commission rules, some stock transactions and some security matters must be acknowledged before a bank officer who does keep a journal. The Montana notary is insufficient for security and exchange purposes because, until recently, a journal was not required.

Sincerely yours,



Thomas E. Towe

TET/vt

cc: Lori Hamm, Notary Division

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